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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,888	08/03/2001	Brian Davidson	367.40417X00	9821
20457	7590	12/02/2005		EXAMINER
				ELAHEE, MD S
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/920,888	DAVIDSON ET AL.
	Examiner	Art Unit
	Md S. Elahee	2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 July 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 7-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 07/06/05, 09/19/05.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. Examiner notices that the applicant had submitted non-elected claims 1-6, 11 of group I in Response to office action Filed on 01/28/05. The applicant is required to cancel those claims from consideration. For the sake of prosecution, examiner has responded arguments of claims 7-10.

### *Response to Arguments*

2. Applicant's arguments filed on 07/25/05 have been fully considered but they are not persuasive.

Regarding claims 7, 8 and 10, the Applicant argues on page 7, lines 14-19 that "Moreover while the telephone number does function as a mechanism for identifying the purchaser, such information does not suggest to a person of ordinary skill in the art a necessity for providing any connectivity for downloading of information via a network to a remote server or terminal in accordance with address information associated with the identity tag as recited in the claims". The examiner disagrees with this argument. Ogasawara suggests obtaining wireless telephone's number (see col.12, lines 34-39). Bhogal uses designated memory portion [i.e., address] for a particular cellular telephone's account [i.e., identity tag] to download voice mail files to a remote server (see col.7, lines 60-65). Since, Bhogal provides motivation for using designated memory portion then one ordinary skill in the art would have combined Ogasawara reference with Bhogal reference so that downloading of information to a remote server can occur in accordance with address information associated with the identity tag. Thus the rejection of the claims in view of Ogasawara and Bhogal remain.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (U. S. Patent No. 6,512,919) in view of Bhogal et al. (U. S. Patent No. 6,751,298).

Regarding claims 7, 8 and 10, Ogasawara teaches a transmitter for transmitting a telephone's number (i.e., identity tag) indicative of the identity of the wireless videophone (i.e., portable radio communication device) (fig.2, 6; col.6, lines 5-11, col.12, lines 30-36).

Ogasawara further teaches that the server (i.e., object device) comprising a telephone interface (i.e., receiver), and a processor (fig.2, 6). (Note: processor is inherent in the server)

Ogasawara further teaches that in response to the telephone interface receiving a telephone's number transmitted from a wireless videophone (i.e., portable radio communication device), the processor authorizing the retrieving (i.e., downloading) of description and price of items (i.e., information) via the network to a wireless videophone (i.e., remote server or terminal) in accordance with address information associated with the telephone's number (fig.2, 6; col.5, lines 31-40, col.6, lines 5-11, 42-52, col.12, lines 30-36, col.21, lines 24-34).

However, Ogasawara does not specifically teach downloading of information via the network to a remote server or terminal in accordance with address information associated with the identity tag. Bhogal teaches downloading of information via the network to a remote server or terminal in accordance with address information associated with the identity tag (fig.1, 8; col.4, lines 3-6, col.7, line 60-65). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogasawara to download of information via the network to a remote server or terminal in accordance with address information associated with the identity tag as taught by Bhogal. The motivation for the modification is to have doing so in order to retrieve the message for later use.

Regarding claim 9, Ogasawara teaches that the mobile terminal (i.e., portable radio communication device) is inherently a passive device (fig.2).

*Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2645

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.E.

MD SHAFIUL ALAM ELAHEE

October 11, 2005



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